

BEFORE THE MONTANA AGRICULTURE DEVELOPMENT COUNCIL  
OF THE STATE OF MONTANA

In the matter of the proposed )	NOTICE OF PROPOSED
amendment of ARM 4.16.303 and )	AMENDMENT AND ADOPTION
4.16.701 and adoption of )	
New Rule I relating to the )	NO PUBLIC HEARING
agricultural marketing )	CONTEMPLATED
development program )	

TO: All Concerned Persons

1. On September 24, 2005, the Montana Agriculture Development Council proposes to amend and adopt the above-stated rules relating to the agricultural marketing development program.

2. The Montana Agriculture Development Council will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on September 8, 2005, to advise us of the nature of the accommodation that you need. Please contact Joel A. Clairmont at the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Phone: (406) 444-2402; TTY: (406) 444-4687; Fax: (406) 444-5409; or E-mail: agr@mt.gov.

3. The rules as proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

4.16.303 APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT LOAN - REVIEW PROCESS (1) through (1)(b) remain the same.

(c) ~~The applicant shall make a formal presentation to the council at a regularly scheduled council meeting. The council staff will then conduct its own due diligence examination of the seed capital project proposal, which involves, at a minimum, a thorough assessment of the project's compliance with the applicable criteria and goals as set forth in the act and rules, the company's management team, the company's potential market, other investors, ownership, and management and financial references.~~

(d) ~~The council staff will then conduct its own due diligence examination of the seed capital project proposal, which involves, at a minimum, a thorough assessment of the project's compliance with the applicable criteria and goals as set forth in the act and rules, the company's management team, the company's potential market, other investors, ownership, and management and financial references. Council staff will then develop a recommendation for the council for its review and consideration.~~

~~(e) Council staff will then develop a recommendation for the council for its review and consideration. The applicant shall make a formal presentation to the council at a regularly scheduled council meeting.~~

AUTH: 90-9-203, MCA

IMP: 90-9-203, 90-9-311, 90-9-312, and 90-9-313, MCA

REASON: As the council holds regularly scheduled meetings on a quarterly basis, current language within the rule defines a timeline of up to approximately six months (two quarters) between submission and approval of an applicant's executive summary for a seed capital loan and the council's final review and decision for a seed capital loan application. By revising the sequence of the application steps required of the applicant, council staff and the council, the application timeline is reduced to approximately three months (one quarter) making the program more user-friendly.

4.16.701 AGRICULTURAL MARKETING AND BUSINESS DEVELOPMENT PROGRAM; PURPOSE, GOALS, AND CRITERIA (1) In addition to the purposes of the "Montana Growth Through Agriculture Act" as set forth in 90-9-102, MCA, the purpose of the marketing and business development program is to find new or expanded markets for the products, processes, and technologies of Montana agricultural businesses.

(2) The agricultural marketing and business development program will coordinate with existing department marketing programs and the market development activities of the department of agriculture.

(3) through (5)(b)(iii) remain the same.

AUTH: 90-9-203, MCA

IMP: 90-9-102, 90-9-201, 90-9-202, and 90-9-401, MCA

REASON: To clarify the council's role in enhancing products, processes, business organizational improvements and markets for Montana's agricultural industry, language is proposed to include business development as an eligible area of investment participation for the council.

4. The new rule as proposed to be adopted provides as follows:

NEW RULE I APPLICATION PROCEDURES FOR AN AGRICULTURAL MARKETING AND BUSINESS DEVELOPMENT INVESTMENT - SUBMISSION AND USE OF INVESTMENT PROPOSAL (1) An applicant for an agricultural marketing or business development investment project shall submit an investment proposal to the council, not to exceed a maximum of eight typewritten pages in at least 12-point font.

(2) The investment proposal must include the following items:

- (a) applicant cover page which includes the investment proposal title, name and contact information of the applicant, applicant tax identification number, and project duration;
- (b) executive summary of the investment proposal;
- (c) identification of need or opportunity which contains a description of the agricultural product and/or process proposed to be developed or marketed with particular emphasis on any proprietary characteristics which would result in a competitive advantage for the applicant;
- (d) investment proposal objectives which detail the intended accomplishments of the project;
- (e) investment proposal deliverables which detail the tangible or intangible outcome(s) of the project;
- (f) investment proposal plan of work which details the timeline, steps, and actions that will be taken to achieve the outcomes defined by the project's objectives and deliverables;
- (g) investment proposal potential use which details the expected benefit or consequence to Montana's agricultural industry(s) should the project result in a favorable outcome and may include an estimate of projected sales revenue, jobs creation or preservation, or other positive economic impact;
- (h) investment proposal key personnel which identifies the project team members and may include a description of the project team's experience and qualifications relevant to the particular focal area;
- (i) investment proposal facilities and equipment which detail the project's facility or equipment needs, if relevant, for the investment project;
- (j) investment proposal current and pending support which detail the nature and amount of both monetary and nonmonetary forms of support pledged toward the investment project and includes a listing of the potential investors; and
- (k) investment proposal budget which:
  - (i) details the amount of funding needed for the current round of financing;
  - (ii) expenses associated with the investment project;
  - (iii) delineates how those expenses are proposed to be funded;
  - (iv) identifies the amount and nature of matching contributions; and
  - (v) the expenditure categories that state monies will be allocated toward.
- (3) The investment proposal is evaluated by the council for a determination of whether the project:
  - (a) complies with ARM 4.16.701(2);
  - (b) should receive a financial investment assistance grant;
  - (c) should have any repayments provisions associated with an award of funding; and
  - (d) should be approved as the executive summary for a seed capital loan application and subject to the processes defined under ARM 4.16.301 through 4.16.305.

(4) The investment proposal should not contain any information that the applicant does not want subject to public inspection.

AUTH: 90-9-203, MCA

IMP: 90-9-202, 90-9-203, 90-9-303, 90-9-311, and  
90-9-401, MCA

REASON: To clarify the process and procedure used by the council in making investments in agricultural marketing or business development projects, the council proposes to adopt a rule providing for a more standardized application format.

5. Concerned persons may submit their data, views or arguments concerning the proposed amendment and adoption in writing to Joel A. Clairmont at the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or E-mail: agr@mt.gov. Any comments must be received no later than September 22, 2005.

6. If persons who are directly affected by the proposed amendment and adoption wish to express their data, views or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Joel A. Clairmont at the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or E-mail: agr@mt.gov. A written request for hearing must be received no later than September 22, 2005.

7. If the agency receives requests for a public hearing on the proposed amendment and adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 2800 persons based on 28,000 farm or ranch operations in Montana.

8. The Department of Agriculture maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding noxious weed seed free forage, noxious weeds, alfalfa seed, agriculture in Montana schools program, agriculture development, pesticides, warehouseman, produce, mint, seed, alternative crops, wheat research and marketing, rural development and/or hail. Such written

request may be mailed or delivered to Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or E-mail: agr@mt.gov or may be made by completing a request form at any rules hearing held by the Department of Agriculture.

9. An electronic copy of this Notice of Proposed Amendment and Adoption is available through the Department's website at [www.agr.mt.gov](http://www.agr.mt.gov), under the Administrative Rules section. The Department strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

DEPARTMENT OF AGRICULTURE

/s/ Ervin Schlemmer  
Ervin Schlemmer, Vice Chair  
Montana Agriculture  
Development Council

/s/ Timothy J. Meloy  
Timothy J. Meloy, Attorney  
Rule Reviewer

Certified to the Secretary of State, August 15, 2005.